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10/707,179	11/25/2003	Cin Kim	04394/0200136-US0	1178
7278 DARBY & DA	7590 06/06/2007 RBY P.C.	EXAMINER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE § MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 3° CFR 1.136(a). In no event, however, may a reply be timely filled in the provision of the provision of 3° CFR 1.136(a). In no event, however, may a reply be timely filled on the provision of the control of the provision of the control of t		Application No.	Applicant(s)					
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extraction of time may be available under the proteions of 37 CPT 1.13(d), in no event, however, may a reply be timely field in the proteion of time the proteions of 37 CPT 1.13(d), in no event, however, may a reply be timely field in the proteion of 37 CPT 1.13(d), in no event, however, may a reply be timely field in the proteion of 37 CPT 1.13(d), in no event, however, may a reply be timely field in the proteion of 37 CPT 1.13(d), in no event, however, may a reply be timely field of this communication. Failure to reply within the set or extended precise for reply will, by statute, cause the application to become ABANDONED (35 U.S. C.§ 133). And reply accessed by this Office date in the mailing date of this communication. Part of the proteion of the communication of the communication of the set of the proteion of the communication of the communication. Status 1)		L						
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2a) ☐ This action is FINAL. 2b) ☑ This action is non-final. 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) ☑ Claim(s) 1-3.5.6 and 8-11 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) ☐ Claim(s) 1-3.5.6 8-11 is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or election requirement. Application Papers 9) ☐ The specification is objected to by the Examiner. 10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority documents have been received. 2. ☐ Certified copies of the priority documents have been received in Application No 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received.	Status .							
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Page 2

Art Unit: 3781

- Claims 1-3, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Heynen (1662039). Heynen teaches a package having a necktie, a box having a bottom portion and a movable top portion, a continuous elastic member 3. With respect to the necktie conceals the elastic member, it is noted that the necktie is only set forth as an intended use. There is no structural difference between the claimed package and the package as set forth in Heynen. Similar with claim 3 wherein the claim only recites the necktie as an intended use.
- Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heynen in view of Lobner (1677146). Lobner teaches the position of a retaining strap being on a center line. It would have been obvious to one of ordinary skill in the art to position the strap at the centerline to provide the desired position for holding the neckties.
- Claims 1, 2, 3, 5, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by 3. Louder (690864). Louder teaches a package having a necktie, a box and a movable top portion (lid, page 1, ln. 20), and an elastic member (portion 7) mounted at portions 10 in spaced locations. Applicant is noted that the term "elastic" is broad and encompassing "resilient member". Attention is directed to Sulentic (1501249) with the device in Fig. 4 is called "elastic" (pg. 1, ln. 33), and Corossman (1578807) (pg. 1, nl. 59). With respect to the necktie conceals the elastic member, the tie in Louder conceal the bottom portion of the elastic member as claimed. It is noted that this is similar to that of applicant wherein the necktie conceal the middle portion with the two sides of the elastic member being exposed.
- Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Louder. It would have been obvious to one of ordinary skill in the art to provide a resilient clip with fist and

Application/Control Number: 10/707,179

Art Unit: 3781

second spaced locations are on a centerline to provide additional clip at the desired location for the device.

Page 3

- 5. Claims 1, 2, 3, 5, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levy (2057838) in view of Heynen. Levy teaches a box with a bottom and a device loop 19 for holding the necktie. Levy meets all claimed limitations except for the loop portion being made of elastic material. Heynen teaches that it is known in the art to provide an elastic material. It would have been obvious to one of ordinary skill in the art to provide a loop portion of Levy from elastic material to provide an alternative device for holding the necktie.
- 6. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over anyone of Heynen, Louder or Levy rejections as set forth above in paragraphs 1, 3, and 5 and further in view of Sanchez or Hallam. Sanchez teaches a fabric cover 72. It would have been obvious to one of ordinary skill in the art to provide a fabric cover in Heynen to provide attractive color and/or for advertisement. With respect to the matching color with the tie. It would have been obvious to one of ordinary skill in the art to provide a tie with matching color and patter to provide the desired aesthetic look. It is noted that matter relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art. In re Seid, 161 F.2d 229, 73 USPQ 431 (CCPA 1947).
- 7. Applicant's arguments have been fully considered but they are not persuasive. With respect to the Heynen rejection of claim 1. The amended claim only recites the box as an intended use. Thus, the structure of the necktie with respect to the elastic portion is an intended use only. Applicant is noted that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to

Application/Control Number: 10/707,179 Page 4

Art Unit: 3781

patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tri M. Mai TM Ai Primary Examiner Art Unit 3781